

February 16, 2010

Insurance & Real Estate Committee
Senate Bill 13
An Act Concerning Real Estate of Appraisal Management Companies

Senator Crisco, Representative Fontana and all distinguished members of the Insurance & Real Estate Committee. I am Scott E.P. Kelland President of Kelland Capital Management, Inc. I appreciate the opportunity to comment and lend support to Senate Bill 13, An Act Concerning An Act Concerning Real Estate of Appraisal Management Companies.

I support the proposed bill with revision and inclusion of superior language adopted by several other states in their successful legislation to regulate AMC's. This critical language clears some of the ambiguity in current proposed draft as well as includes specific language omitted. I have provided by separate attachment a document that includes inserts and comments to original Bill 13 draft for your review. The bill in its current lacks key essential components. I have provided below a link below for the North Carolina proposed legislation. It is an extremely well drafted document. I also suggest the review of newly signed into law New Mexico and the completed legislation of Oregon and Indiana.

Appraisal Management Companies (AMC's) nationwide have had significant negative impact on the collateral risk evaluation process and have been defendants of several major national lawsuits. Many states have adopted regulation or are in the process of adopting laws to clearly identify what defines an AMC and exactly how AMC's may interact with Certified/Licensed appraisers that are individually regulated within the states. Stories of rampant abuse are well chronicled in law suits filed against Wells Fargo & RELS Valuation it's AMC affiliated company as well as the infamous case brought by New York Attorney General Andrew M. Cuomo, People of New York against First American Corporation & E-Appraiseit an AMC and its association with Washington Mutal. The Cuomo suit promptly resulted in the settlement by both Fannie Mae and Freddie Mac and resulted in the creation of the Home Valuation Code of Conduct (HVCC). The above mentioned complaints are a must read by any individual wishing to get a better understanding about AMC's and the conflicts and potential abuses they create. They are well written and easy to understand for the layman. Links for download are provided below:

New York, Cuomo:

http://www.ag.ny.gov/media_center/2007/nov/EA%20Complaint.pdf

Wells Fargo

<http://www.hbsslaw.com/files/Wells%20Fargo%20SComplaint1239756118659.pdf>

The advent of the HVCC has caused great confusion as it relates to the appraiser independence and the use of AMC's or third parties. Many believed incorrectly that banks and lending institutions had to use AMC's or third parties to engage an appraiser. Nothing could be further from the truth. The Federal Law is clear in federally related transactions as it relates to an "In House" appraiser being independent from lending, investment collection of funds, and not involved, except as an appraiser and have no direct or indirect interest financial or otherwise in a property. A fee appraiser may be engaged directly by regulated institution or its agent and also must maintain same independence. The key is to maintain separation between risk management functions and loan production staff. Compliance for the appraisal function should report to an individual or department outside of loan production.

This does not hold true for mortgage brokers. FHA has a very clear statement: "FHA-approved lenders are prohibited from accepting appraisals prepared by FHA Roster appraisers who are selected, retained or compensated in any manner by a mortgage broker or any member of a lender's staff who is compensated on a commission basis tied to the successful completion of a loan."

When one starts a conversation and opens by saying "it's not about the money" it's always about the money. Follow the money and you will see who is behind any cause. In the case of AMC's it all about the money and a desire not disclose anything about how they are making money. AMC's typically require the appraiser not disclose actual compensation paid to appraiser, seek intentionally opaque policies concerning payments, all at the expense of the strictly regulated appraiser. More importantly AMC's are now basically the only player in a mortgage transaction who are not regulated and are deriving fees. FHA has handled this issue quite well in its Mortgage Letter 2009-28, Subject Appraiser Independence (link below).

HUD

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/files/09-28ml.pdf>

Excerpt from HUD Mortgage Letter 2009-28:

Appraisal and Appraisal Management Company (AMC)/Third Party Organization Fees

FHA does not require the use of AMCs or other third party organizations for appraisal ordering, but recognizes that some lenders use AMCs and/or other third party organizations to help ensure appraiser independence. To address several questions that have already been raised regarding compensation, this mortgagee letter **corrects and expands** existing fee requirements set forth in Mortgagee Letter 1997-46.

FHA-approved lenders must ensure that:

- FHA Appraisers are not prohibited by the lender, AMC or other third party from recording the fee the appraiser was paid for the performance of the appraisal in the appraisal report.
- FHA Roster appraisers are compensated at a rate that is customary and reasonable for appraisal services performed in the market area of the property being appraised.

- The fee for the actual completion of an FHA appraisal may not include a fee for management of the appraisal process or any activity other than the performance of the appraisal.
- Any management fees charged by an AMC or other third party must be for actual services related to ordering, processing or reviewing of appraisals performed for FHA financing.
- AMC and other third party fees must not exceed what is customary and reasonable for such services provided in the market area of the property being appraised.

As one continues to follow the money trail, it is easy to see why AMC's don't wish to disclose fees for their services or what is actually paid to appraiser. These actions have resulted in massive dilution in the appraisal quality as well as the number of appraisers in Connecticut. Appraisers with extensive experience are leaving in droves as a result of AMC's. I do not represent that appraisal quality should be affiliated with an associated fee or condone that any appraiser should do an inferior job as a result of lower than desired fee for any particular assignment. An appraiser is bound by USPAP, establishes an assignment based upon property individual uniqueness, complexity and agreed upon scope of work. An appraiser should quote an assignment based on estimated time and appropriate affiliated costs in bidding a specific assignment.

Reality is that the good appraisers know what the appropriate fee ranges are for standard assignments and refuse the low ball fees being offered by AMC's that just shop for the "Fast & Cheap" regardless of qualifications or geographic competency. Thus AMC's must extend search or get the desperate or unqualified appraisers to complete assignments. This is why you hear realtors throughout country complaining about AMC's sending inferior appraisers. Reiterating appraiser compliance with USPAP, there is no excuse for an appraiser accepting an assignment where one can't demonstrate competency. Again, "Follow The Money".

Fees that appraisers receive should be set by the market factors and directly negotiated directly with lender and appraiser based on scope of work, not by a third party or AMC. Fee schedules that appraiser have with AMC's that show fees affiliated for certain property types within a estimated value range are a violation of USPAP ethics standards regarding predetermined value.

The appraisal process starts with the initial phone call from a client wishing to engage an appraiser. The appraiser needs to conduct specific lines of questioning with regards to the nature of assignment in order to agree to the scope of work and price accordingly. The AMC "monkey in the middle" who orders the appraisal possesses limited to no knowledge on scope of work, just requests quotes, turn times and is lucky to speak the Kings English, definitely would be challenged to spell the word appraisal and clearly wouldn't be able to identify an appraisal if there life depended on it. Believe it or not the individual described above is the decision maker in assigning the job. One wonders why appraisal quality has suffered via AMC's. Again "Follow The Money".

A significant amount of hard work has been completed by several concerns with experienced competent individuals in attempt to cure the ills of AMC's. The fact that AMC's currently exist and have existed for some time, are part of a process with extensively regulated and licensed professionals, warrants regulation. I personally deem regulation for a needless entity known and

identified as an AMC to be a “Satisficing Solution”, a word defined as a willingness to settle for something less versus seeking “Maximization” or seeking best possible outcome. Banks and lending institutions may come to the conclusion they have been picking pennies up in front of steamrollers. It is abundantly clear the risk metrics employed by said institutions in past fifteen years have all been clearly wrong. Lending institutions have suffered unprecedented losses and will continue to do so if they don’t get back to basics in evaluating collateral and pay very close attention to certified, qualified parties affiliated with valuations.

Lending institutions hopefully will come to conclusion that should have allocated more resources to insure appraiser independence, engage directly proper certified experts qualified to communicate accurate values, eliminate unessential third parties (AMC’s) in middle that dilute and or distort the valuation process. Institutions will see the true cost benefit analysis with regards to outsourcing and employing unessential third parties was significantly short sighted, resulted in significant loss and jeopardized the entire banking system while putting the entire economy in a massive recession.

If institutions come to the conclusions outlined above, AMC’s will become extinct. But unfortunately as reported by our top Federal and Treasury Regulators, we attempt to build better mousetraps via regulation, but unfortunately we end up with smarter rats. Thus Bill 5221 needs to be implemented in some form. It should be noted that many specific details are not presented in this bill but are more extensively detailed in Connecticut S.B. 13, An Act Concerning The Registration of Appraisal Management Companies, presented to Committee on Insurance and Real Estate. Both Connecticut bills H.B. 5221 and S.B. 13 drafted have much of the exact same language contained in the North Carolina Bill Senate Bill 829V3- AN ACT TO REGULATE REAL ESTATE APPRAISAL MANAGEMENT COMPANIES. The NC Bill has significantly superior language, is less intentionally vague and covers many key features that will reduce AMC abuse and fraud, will be easier to regulate and enforce. The link for download is provided below.

<http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/HTML/S829v3.html>

Thank you for your time and consideration.

Sincerely,

Scott E. P. Kelland
President /CEO

SB
13
FTR

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This is a separate attachment provided and referred to in written testimony concerning S.B. 13 on February 16, 2010.

Blue Highlights indicates inserted new proposed text
(#) Original Paragraph Number
(#) New Proposed Paragraph Number

AN ACT CONCERNING REAL ESTATE APPRAISAL MANAGEMENT COMPANIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 20-500 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 As used in sections 20-500 to 20-528, inclusive, as amended by this
4 act, and sections 2 to 7, inclusive, of this act, unless the context
5 otherwise requires:

6 (1) "Appraisal" means the practice of developing an opinion of the
7 value of real property, in conformance with the USPAP.

105 (18) "USPAP" means the Uniform Standards of Professional
106 Appraisal Practice as developed by the Appraisal Foundation.

- Why is USPAP defined below on line 105 and not below first use of acronym above in line 7?

8 (1) (2) "Appraisal Foundation" means the not-for-profit
9 corporation referred to in Section 1121 of Title XI of FIRREA.

10 (3) "Appraisal management company" means any person,
11 partnership, association, limited liability company or corporation that
12 performs appraisal management services and performs more than ten
13 appraisals in this state in a calendar year. "Appraisal management
14 company" does not include:

- "Appraisal Management Company" means any person, partnership, association, limited liability company or corporation that performs "Appraisal Management Services" (Defined Below) and performs

more than ten appraisals in this state in a calendar year. "Appraisal management company" does not include:

- **Appraisal Management Services should have first letters of each word capitalized so as to indicate that it is a specific definition of individual words used collectively in order to define a specific definition of services employed by an Appraisal Management Company in a context as it applies specifically to this legislation.**

1. Clarifications, Ambiguities, Comments:

- **Does the AMC have staff appraisers? What is meant by "performs more than ten appraisals in this state in a calendar year"? Does this imply they have engaged 10 independent contracted appraisal reports? Or does it only apply if they have staff appraisers currently certified in state of Connecticut who are qualified to complete an individual appraisal assignment, whether it be what is recognized as a Full Appraisal, Formal Review (Desk, Field) as defined specifically by terms of USPAP.**

15 (A) A person, partnership, association, limited liability company or
16 corporation that employs a person to perform appraisals under any,
17 express or implied contract of hire creating the relationship of
18 employer and employee and such person, partnership, association,
19 limited liability company or corporation is responsible for ensuring
20 that the appraisals are performed in accordance with the USPAP; or

2. Clarifications, Ambiguities, Comments:

- **The above paragraph clearly refers to a traditional Appraisal Firm/Company who may have employees that are appraisers or may have independent contractors who are definitely not employees. The usage of "express or implied contract of hire creating the relationship of employer and employee and such person". The use of the word employs as it relates to an independent contractor is quite confusing. The relationship of employer and employee clearly does not exist for independent contractors.**
- **Should read:**
- **(16) Corporation that employs/contracts a person...**

21 (B) A department or unit of a financial institution that is subject to
22 regulation by an agency or department of the United States

23 government or an agency of this state, that receives an appraisal
24 request from an employee of such institution, except that an appraisal
25 management company that is wholly owned by such institution, shall
26 not be deemed to be a department or unit of such institution. For the
27 purposes of this subparagraph, "financial institution" means a bank, as
28 defined in section 36a-2, an out-of-state bank, as defined in section 36a-
29 2, an institutional lender, any subsidiary or affiliate of such bank, out
30 of-state bank or institutional lender, or other lender licensed by the
31 Banking Department.

3. Clarifications, Ambiguities, Comments:

- **This is paragraph is total garbage, confusing and not conveying the point. Needs to be totally re-written and simplified. Needs to be broken up into sub-components to identify specifics.**
- **Current HVCC states a bank can't own more than 20% and specifically delineates how appraisals are to be ordered via third parties and who can order based upon several conditions. (Risk Management, Production-Commissioned individuals, etc.) A properly drafted paragraph needs to take this into account not to mention other government departments that may engage in activities that would not be subject to definition of Appraisal Management Services.**

Superior concise wordage:

An appraisal management company does not include any of the following:

- (a.) Any agency of the federal government or any State or municipal government.
- (b.) Any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that exclusively employs persons on an employer and employee basis for the performance of appraisals in the normal course of its business and the entity is responsible for ensuring that the appraisals are being performed in accordance with 1 Article 1 of this Chapter and with the Uniform Standards of 2 Professional Appraisal Practice.
- (c.) Any bank, farm credit system, savings institution, or credit union.

(d.) Any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that has as its primary business the development of appraisals in Connecticut in accordance with Article 1 of this Chapter and with the Uniform Standards of Professional Appraisal Practice (USPAP).

(e.) Any corporation, partnership, sole proprietorship, subsidiary, unit, or other business entity that has as its primary business the development of appraisals in Connecticut, but that in the normal course of business enters into an agreement with an independent contract appraiser for the performance of appraisals that the contracting entity cannot complete either because of the location or type of property in question.

(f.) Any officer or employee of an exempt entity described in this subdivision when acting in the scope of employment for the exempt entity.

32 (4) "Appraisal management services" means any of the following:

33 (A) The administration of an appraiser panel;

34 (B) The recruitment of certified or licensed appraisers to be part of
35 an appraiser panel, including, but not limited to, the negotiation of fees
36 to be paid to, and services to be provided by, such appraisers for their
37 participation on such panel; or

38 (C) The receipt of an appraisal request or order and the delivery of
39 such request or order to an appraiser panel.

4. Clarifications, Ambiguities, Comments:

- **AMC's should not be negotiating specific fees on behalf of their panel appraisers. Fees should be derived for a specific job type and scope of work for an individual job assignment. Current fee schedules by Quantrix, Rels etc. as it relates to predetermined indicated range of values are clear ethics violations under USPAP.**
- **Wordage also needs to communicate that it should be a proper appraisal request or order (no indication of value or loan amount) and not include to a real estate appraiser an anticipated, estimated, encouraged, or desired value for a subject property or a proposed or targeted amount to be loaned to the borrower. However, a real estate appraiser may be provided with a copy of the sales contract for purchase transactions.**

- **The delivery for said individual requests to approved panel member for an individual fee quote based on a unique nature for a specific assignment.**
- **Delivery of completed appraisal is also the duty of the AMC providing Appraisal Management Services and should be identified in sub-paragraph. Delivery must be an exact secured original copy of appraisal as signed and secured by original appraiser for which AMC can't alter, data mine or use individual appraisal for any other use.**

Superior wordage for Prohibited Acts:

- (1) Alter, modify, or otherwise change a completed appraisal report submitted by an independent appraiser without the appraiser's written knowledge and consent.
- (2) Use an appraisal report submitted by an independent appraiser for any other transaction or use.
- (3) Require an appraiser to sign any sort of indemnification agreement that would require the appraiser to defend and hold harmless the company, any software provider that the company requires an appraiser to use, or any other company that the company does business with from any liability, damage, losses, or claim.
- (4) Require an appraiser to provide the company with the appraiser's digital signature or seal.

40 (5) "Appraiser fee schedule" means a list of the fees an appraisal
 41 management company shall pay to a certified or licensed appraiser for
 42 the performance of appraisals.

- **AMC should have nothing to do with fees. Payment is to be directly from bank/client to appraiser and AMC should be compensated and billed separate with specific fee identified.**

Superior wordage:

Fees shall be paid to a real estate appraiser based on Federal Deposit Insurance Corporation (FDIC) appraisal management company protocol within 30 days of the date the appraisal is transmitted by the real estate appraiser to the registrant or the registrant's client. Fees shall be paid directly to the real estate appraiser from the lender and not from the registrant. The registrant shall charge a direct fee to the lender for services provided without any fee splits.

43 (6) "Appraiser panel" means a network of appraisers who are
44 certified or licensed in accordance with the requirements established
45 by the commission by regulation, who are independent contractors of
46 an appraisal management company and who have:

- **Can't AMC have staff appraisers? Are we recognizing Licensed in CT now?**

47 (A) Responded to an invitation, request or solicitation from an
48 appraisal management company to perform appraisals (i) requested or
49 ordered through such company, or (ii) directly for such company on a
50 periodic basis as assigned by the company; and
51 (B) Been selected and approved by such company.

- **47-51 poorly worded not sure germane or relevant. Don't know why invitation of solicitation is relevant. The reader clearly understands that an appraiser on said panel is engaged to due appraisals and obviously has been approved or they would not be on panel.**

52 (2) (7) "Certified appraiser" means a person who has satisfied the
53 minimum requirements for a category of certification established by
54 the commission by regulation. Such minimum requirements shall be
55 consistent with guidelines established by the Appraisal Qualification
56 Board of the Appraisal Foundation. The categories of certification shall
57 include, but may be modified by the commission thereafter, one
58 category denoted as "certified residential appraiser" and another
59 denoted as "certified general appraiser".

60 (3) (8) "Limited appraiser" means a person who held a real estate
61 appraisal license as of January 1, 1991, and has satisfied the minimum
62 requirements for a license as a limited appraiser as established by the
63 commission by regulation. The categories of limited appraisal shall
64 include one category denoted as "limited residential appraiser" and
65 another denoted as "limited general appraiser".

66 [(4)] (9) "Commission" means the Connecticut Real Estate Appraisal
67 Commission appointed under the provisions of section 20-502.

68 (10) "Commissioner" means the Commissioner of Consumer
69 Protection.

70 (11) "Controlling person" means a person who holds an appraiser
71 license or certificate in at least one state and who:

- Should read. Holds a current and valid appraisal license or certificate.
Are we allowing non-reciprocity states to be deemed a valid license or
certificate holder?

72 (A) Is an owner, officer or director of a partnership, association,
73 limited liability company or corporation offering or seeking to offer
74 appraisal management services in this state;

75 (B) Is employed by an appraisal management company and has the
76 authority to enter into contracts or agreements for the performance of
77 appraisal management services or appraisals, or is appointed or
78 authorized by such company to enter into such contracts or
79 agreements; or

80 (C) May exercise authority over or direct the management of
81 policies of an appraisal management company.

- **The above statements collectively state that if you are not a licensed/certified appraiser in any state you can't be identified as a controlling person in what is defined as an AMC, correct?**
- **Should we have a Compliance Manager Certified in this State?**
- **Superior wordage:**
- Each appraisal management company registered under this Article shall designate a compliance manager who is responsible for ensuring the company operates in compliance with this Article. The compliance manager shall be a certified real estate appraiser certified under Connecticut Law. The appraisal management company shall file a form with the Commission indicating the appraisal management company's designation of compliance manager and the individual's acceptance of the responsibility. An appraisal management company shall notify the Commission of any change in the appraisal

management company's compliance manager. Any appraisal management company that does not comply with this section shall have the appraisal management company's registration suspended pursuant to (*insert code*) until the appraisal management company complies with this section. An individual operating an appraisal management company as a sole proprietorship shall be considered the compliance manager for purposes of this Article.

82 [(5)] [(2)] "Engaging in the real estate appraisal business" means the
83 act or process of estimating the value of real estate for a fee or other
84 valuable consideration.

- **Why is paragraph (17) below not immediately below above paragraph 12)?**
- **One defines "act or process" the other applies to a person or individual. Much easier to see the difference when they adjacent paragraphs.**

102 [(10)] [(17)] "Real estate appraiser" or "appraiser" means a person
103 engaged in the business of estimating the value of real estate for a fee
104 or other valuable consideration.

85 [(6)] [(13)] "FIRREA" means the Financial Institutions, Reform,
86 Recovery and Enforcement Act of 1989, P.L. 101-73, 103 Stat. 183.

87 [(7)] [(14)] "Licensed appraiser" means a person who has satisfied the
88 minimum requirements for a category of licensing, other than licensed
89 limited appraiser, established by the commission by regulation. Such
90 minimum requirements may be consistent with guidelines established
91 by the Appraisal Qualification Board of the Appraisal Foundation. The
92 categories of licensing shall include, but may be modified by the
93 commission thereafter, one category denoted as "licensed residential
94 appraiser" and another denoted as "licensed general appraiser".
95

[(8)] [(15)] "Person" means any individual.

96 [(9)] [(16)] "Provisional appraiser" means a person engaged in the
97 business of estimating the value of real estate for a fee or other
98 valuable consideration under the supervision of a certified or licensed
99 real estate appraiser and who meets the minimum requirements, if
100 any, established by the commission by regulation for provisional
101 appraiser status.

102 [(10)] [(17)] "Real estate appraiser" or "appraiser" means a person
103 engaged in the business of estimating the value of real estate for a fee

104 or other valuable consideration.

105 (18) "USPAP" means the Uniform Standards of Professional
106 Appraisal Practice as developed by the Appraisal Foundation.

107 Sec. 2. (NEW) (Effective October 1, 2010) (a) No appraisal
108 management company shall (1) engage or attempt to engage in
109 business as an appraisal management company in this state, (2)
110 perform or attempt to perform appraisal management services in this
111 state, or (3) advertise or hold itself out as engaging in business as an
112 appraisal management company in this state without first registering
113 with the Department of Consumer Protection.

114 (b) Each appraisal management company shall apply to the
115 Commissioner of Consumer Protection, in writing, on a form provided
116 by the commissioner. The application shall include (1) the company's
117 name, business address and telephone number; (2) if such company is
118 domiciled in another state, the name, address and telephone number of
119 the company's agent for service of process in this state, and the
120 Uniform Consent to Service of Process form to be completed by the
121 company; (3) the name, address and telephone number of any person
122 or business entity owning ten per cent or more of an equity interest, or
123 the equivalent, of the company; (4) a certification by the company that
124 no person or business entity named in subdivision (3) of this
125 subsection has had an appraiser license or certificate denied, refused to
126 be renewed, suspended or revoked in any state; (5) the name, address
127 and telephone number of a controlling person of the company who
128 will serve as the main contact for communications between the
129 commissioner and the appraisal management company; (6) [REDACTED]; and (7) any other
130 information the commissioner may require. Each such application shall
131 be accompanied by a fee of [REDACTED] dollars.
132

- **Fee schedules are violation of USPAP. What about AMC fees which should be itemized and broken out separately.**
- **Should include a completed and detailed business plan with strict USPAP compliance, Quality Control Guidelines and Procedures, HVCC Compliance, etc.**

133 (c) Before issuing or renewing a certificate of registration, the
134 commissioner shall:

135 (1) Certify that each appraisal management company applying for a

136 certificate of registration has procedures in place to (A) verify that a
137 person being added to the appraiser panel of the company holds a
138 license in good standing in accordance with section 20-509 of the
139 general statutes, (B) maintain detailed records of each appraisal
140 request or order it receives and of the appraiser who performs such
141 appraisal, and (C) review on a periodic basis the work of all appraisers
142 performing appraisals for the company, to ensure that such appraisals
143 are being conducted in accordance with the USPAP;

- **What type of review? Technical, Clerical? Is it for in house use only? USPAP matters only? Who reviews and what are the qualifications of reviewer? Who are results divulged to? In the presence of violations what are the required disclosures?**

Superior wordage

Any registrant having a good faith belief that a real estate appraiser licensed in this State has violated applicable law or the Uniform Standards of Professional Appraisal Practice or engaged in unethical conduct shall promptly file a complaint with the Commission.

- **All above way to vague by what is meant by review, qualifications of reviewer and how those individuals communicated with certified/licensed panel appraisers.**
- **If an AMC is doing desk reviews and field reviews “In House” how are they individually billed and associated with original appraisal done by outside panel appraiser. How are ROV’s handled?**

144 (2) Determine to the commissioner's satisfaction that each person
145 owning more than ten per cent of an appraisal management company
146 is of good moral character and such person has submitted to a
147 background investigation, as deemed necessary by the commissioner;
148 and

- **Character & Competence is an excellent idea. It is employed in NY State as one of the (5) Bureaus for Article 28 Health Care Licensing.**

149 (3) Determine to the commissioner's satisfaction that the controlling

150 person (A) holds a valid appraiser license or certificate in at least one
151 state, (B) has never had an appraiser license or certificate denied,
152 refused to be renewed, suspended or revoked in any state, (C) is of
153 good moral character, and (D) has submitted to a background
154 investigation, as deemed necessary by the commissioner.

155 (d) (1) The commissioner shall issue a registration number to each
156 appraisal management company registered in this state and shall
157 publish annually a list of appraisal management companies that are
158 registered with the Department of Consumer Protection.

159 (2) Each such company shall state in any advertisement, including
160 any advertisement in a telephone directory or on the Internet, that
161 such company is registered in this state and shall include such
162 company's registration number in any such advertisement.

163 (e) All certificates issued under the provisions of this section shall
164 expire annually. The fee for renewal of a certificate shall be
165 dollars.

166 Sec. 3. (NEW) (Effective October 1, 2010) (a) Each appraisal
167 management company shall certify to the commissioner annually that
168 it maintains a detailed record of each appraisal request or order it
169 receives and of the appraiser who performs such appraisal.

- **Each detailed record must indicate the original proper request form (electronic or paper) verified to have no reference to predetermined value, total fee billed by appraiser for services with the appropriate associated AMC fee. The record should include the order date, delivery date, date indicated fee paid to appraiser and AMC.**

170 (b) Each appraisal management company may audit the appraisals
171 completed by appraisers on its appraiser panel to ensure that such
172 appraisals are being performed in accordance with the USPAP.

- **Who is eligible to audit? Must be a certified appraiser in good standing to audit of any state? Results of audit have to be chronicled, disclosed and reported properly. To whom should the audits be available? Are AMC's required to divulge violations to Commissioner? Who vets the AMC Quality Control Program (QC)?**
- **If and AMC is warranting their appraisal reports to clients for errors & omissions, aren't they effectively validating or**

communicating a value? Especially if the AMC "In House" staff touched the report. Did they sign it or state significant assistance in addendum? Are just indemnifying a client against loss as result of litigation from a faulty appraisal. Is the AMC offering an insurance product that should fall under auspices of the Insurance Commissioner?

173 (c) Upon request by the commissioner, an appraisal management
174 company shall provide a current list of the appraisers included in such
175 company's appraiser panel

176 (d) (1) Any appraisal management company that utilizes any
177 appraiser fee schedules shall develop such schedules through one or
178 more surveys of the market rates applied to appraisers in this state.
179 Such surveys shall be performed utilizing statistically valid
180 methodologies, techniques and reliable data sources, including, but not
181 limited to, representative samples of appraisers.

- **In Health Care we use RVS (relative value studies) codes for billing specific procedures in all regions throughout the country and have for years. No such animal exists for appraisers. AMC should have nothing to do with fees, should not set fees. As indicated fee schedules are a violation of USPAP and assignments should be quoted individually based on complexity of assignment and scope of work. Fees can vary greatly and there is no statistically valid database to establish relevant criteria for fees in general. Markets will set fees.**
- **AMC should establish standard appraisal ordering or processing fee as derived regionally and post. These fees can have nothing to do with appraisal fee or communicating a value.**

182 (2) The commissioner may review any appraiser fee schedule to
183 ensure that such schedule was developed in accordance with
184 subdivision (1) of this subsection. Upon request of the commissioner,
185 an appraisal management company shall disclose to the commissioner
186 the methodologies, techniques and data sources used by such
187 company to determine the amounts listed on such schedule.

- **The only relevant fees to be reviewed are the fees the AMC is charging for processing an individual appraisal. The appraiser sets a fee based on individual job**

assignment and is communicated specifically for that individual job, specifically validated and confirmed via AMC authorized certified or licensed appraiser. Appraiser collects fee directly from Bank/Client on numbered individual assignment. AMC is not entitled to share in any portion of the appraisal fee in any way shape or form. Only the current owner of a valid Connecticut appraisal license in the state and signor on appraisal report is entitled to a fee indicated on the report. No exceptions.

- **AMC fee has no correlation to appraiser fee. AMC fee should be directly affiliated with the processing of the individual appraisal and substantiated.**
- **All fees both appraisal and AMC should be logged and subject to audit by Commissioner.**
- **If AMC performs a field review by “In House” certified/licensed appraiser in good standing in Connecticut, it must be identified with a separate affiliated numbered file with specific fee affiliated with review, billed separately from original panel appraisal fee.**

**188 (3) The commissioner shall make public the results of any appraiser
189 fee schedule review under subdivision (2) of this subsection**

- **Commissioner could make available a historical quarterly report of fees charged by region for individual job type within specific value ranges as derived by reconciliation from the detailed records of appraisal request indicated above.**
- **The objective of legislation should not be about individual fee amounts but about who is entitled to collect a fee for a given service performed, be properly licensed, eligible to collect said fees and that all fees are to be fully disclosed and transparent to all parties throughout process. “Free Markets” will set fees.**

- **Implicitly understood (emphasis added) is that no employee, director, officer, or agent of an appraisal management company or any other third party acting as joint venture partner or independent contractor shall may charge an Appraisal Fee or share in a fee unless they hold a valid real estate appraisal license issued by the Connecticut Department of Consumer Protection.**

190 Sec. 4. (NEW) (Effective October 1, 2010) (a) No appraisal
191 management company applying for a certificate of registration shall;

192 (1) Be more than ten per cent owned by any person who has had an
193 appraiser license or certificate denied, refused to be renewed,
194 suspended or revoked in any state;

195 (2) Be owned by any partnership, association, limited liability
196 company or corporation that is more than ten per cent owned by any
197 person who has had an appraiser license or certificate denied, refused
198 to be renewed, suspended or revoked in any state;

199 (3) Employ any person who has had an appraiser license or
200 certificate denied, refused to be renewed, suspended or revoked; or

201 (4) Enter into any contract, agreement or other business
202 arrangement, whether oral, written or any other form, with (A) any
203 person who has had an appraiser license or certificate denied, refused
204 to be renewed, suspended or revoked, or (B) any partnership,
205 association, limited liability company or corporation that employs or
206 has entered into any contract, agreement or other business
207 arrangement, whether oral, written or any other form, with any person
208 who has had an appraiser license or certificate denied, refused to be
209 renewed, suspended or revoked.

210 (b) Any employee of an appraisal management company or any
211 contractor working on behalf of such company who has any
212 involvement in the ordering of appraisals in this state, performance of
213 appraisals in this state or review and analysis of completed appraisals
214 in this state shall be certified or licensed and in good standing
215 pursuant to the provisions of sections 20-500 to 20-528, inclusive, of the
216 general statutes, as amended by this act.

- **Note the word “ordering”. In an AMC context the person ordering the appraisal I assume is actually “placing” the appraisal with a panel appraiser. This individual should clearly be certified/licensed due to the fact that individual will be soliciting fee quotes while presenting specific scope of work details pertaining to individual assignments to panel appraisers. Further that individual must be able to convey complexities discovered or learned in the process of obtaining fee quotes from panel appraisers qualified and competent for a specific property to the client. Many times complexity of assignment by client is unknown and is typically reported by the appraiser to client at time of identifying scope of work and quoting. Also many times after inspection scope of work changes by what is derived in field and requires a fee modification. All of the above are reasons for having the described individual certified and or licensed.**
- **Is the panel appraiser under contract with AMC? Again does AMC have “In House “ contracted or employed appraisers and they have to be certified in Connecticut to communicate an appraised value.**
- **Question remains does Connecticut recognized any certified or license appraiser from any state? Line 214 states “shall be certified or licensed and in good standing”. Does this mean certified or licensed in Connecticut? Certified/Licensed appraiser can only be used in ordering appraisals and can be from any state regardless if employed or contracted with AMC. The described “orders” can’t have anything to do with performing a review or formal analysis as recognized by USPAP without a Connecticut appraisal license.**

- **The “performance of appraisals” means completing an appraisal that would require a Connecticut Certified appraiser to communicate a value, or concur with a value. Only an administrative review would be allowed under USPAP.**
- **USPAP standards are very clear under Standard 3 for review appraisals:**
 - A reviewer must ascertain whether the assignment includes the development of his or her own opinion of value about the subject property of the work under review.
 - If the assignment includes the reviewer developing his or her own opinion of value about the subject property of the work under review, that opinion is an appraisal whether it:
 - concurs with the opinion of value in the work under review, as of the date of value in that work or a different date of value; or
 - differs from the opinion of value in the work under review, as of the date of value in that work or a different date of value.

217 (c) Except in cases of breach of contract or substandard performance
 218 of services, each appraisal management company operating in this
 219 state shall make payment to an appraiser for the completion of an
 220 appraisal or valuation assignment not later than sixty days after the
 221 date on which such appraiser transmits or otherwise provides the
 222 completed appraisal or valuation study to the appraisal management
 223 company or its assignee.

- **As indicated in draft proposals for other states (North Carolina), AMC does not pay appraiser, paid directly by Bank/Client as named on report. 60 days is also excessive, 30 days as also represented in North Carolina draft.**

224 (d) No employee, owner, controlling person, director, officer or
 225 agent of an appraisal management company shall influence or attempt
 226 to influence the development, reporting or review of an appraisal in
 227 any manner, including, but not limited to:

228 (1) Withholding or threatening to withhold timely payment for an
229 appraisal;

230 (2) Withholding or threatening to withhold business from, or
231 demoting, terminating or threatening to demote or terminate, an
232 appraiser;

233 (3) Expressly or impliedly promising future business, promotion or
234 increased compensation to an appraiser;

235 (4) Conditioning an appraisal request or payment of a fee, salary or
236 bonus on the opinion, preliminary estimate, conclusion or valuation to
237 be reached by the appraiser;

238 (5) Requesting that an appraiser provide a predetermined or desired
239 valuation in an appraisal report or estimated values or comparable
240 sales at any time prior to the completion of an appraisal;

- **This statement should identify more clearly that seeking a predetermined or desired valuation prior to a completion of report or estimated values or comparables sales is “Shopping a Value” or “Comp Check” and is clearly requires communication of value on part of appraiser and must be documented in a file comply with USPAP.**

241 (6) Providing to an appraiser an anticipated, estimated, encouraged
242 or desired value for a subject property or a proposed or target amount
243 to be loaned to the borrower, except that a copy of the contract to
244 purchase may be provided;

- **Line (244) except that a copy of the contract to purchase may be provided;**
- **Should read “must be provided as per USPAP”.**

245 (7) Providing or offering to provide to an appraiser or to any person
246 or entity related to the appraiser stock or other financial or
247 nonfinancial benefits;

248 (8) Removing an appraiser from an appraiser panel without prior
249 written notice to such appraiser as set forth in section 5 of this act;

250 (9) Obtaining, using or paying for a subsequent appraisal or
251 ordering an automated valuation model in connection with a mortgage

252 financing transaction unless (A) there is a reasonable basis to believe
253 that the initial appraisal was flawed or tainted and such basis is clearly
254 noted in such transaction file, or (B) such subsequent appraisal or
255 automated valuation model is performed pursuant to a bona fide
256 prefunding or postfunding appraisal review or quality control process;
257 or

258 (10) Using any other act or practice that impairs or attempts to
259 impair an appraiser's independence, objectivity or impartiality.

260 (e) Nothing in subsection (d) of this section shall be construed to
261 prohibit an appraisal management company from requesting that an
262 appraiser provide additional information about the basis for a
263 valuation or correct objective factual errors in an appraisal report.

264 Sec. 5. (NEW) (*Effective October 1, 2010*) (a) Except within the first
265 thirty days after an appraiser is initially added to an appraiser panel of
266 an appraisal management company, such company shall not remove
267 an appraiser from its appraiser panel or otherwise refuse to assign
268 requests or orders for appraisals without:

269 (1) Notifying the appraiser in writing of the reasons why the
270 appraiser is being removed;

271 (2) If the appraiser is being removed for alleged illegal conduct,
272 violation of the USPAP or violation of state licensing standards,
273 notifying the appraiser in writing of the nature of the alleged conduct
274 or violation; and

275 (3) Providing the appraiser with an opportunity to respond to such
276 notice.

277 (b) (1) Any appraiser who is removed from an appraiser panel
278 of an appraisal management company for alleged illegal conduct,
279 violation of the USPAP or violation of state licensing standards may
280 file a complaint with the commissioner and request a review of the
281 removal decision, except that the commissioner shall not make any
282 determination regarding the nature of the business relationship
283 between the appraiser and the appraisal management company that is
284 unrelated to the actions specified in subsection (a) of this section.

285 (2) If an appraiser files a complaint against an appraisal management
286 company pursuant to subdivision (1) of this subsection, the
287 commissioner shall notify such company not later than ten days after
288 such complaint is filed. The commissioner shall schedule a hearing and
289 render a decision not later than one hundred eighty days after the date

290 such complaint is filed.

291 (3) If, after the hearing, the commissioner determines to the
292 commissioner's satisfaction that the appraiser did not engage in illegal
293 conduct, violate the USPAP or violate state licensing standards, the
294 commissioner shall order such appraiser to be reinstated to the
295 appraiser panel of the appraisal management company.

- **What are ramifications for AMC for falsely removing?**

296 (4) The appraisal management company that was the subject of
297 the complaint shall not (A) refuse to assign requests or orders for
298 appraisals or reduce the number of assignments to the reinstated
299 appraiser, or (B) otherwise penalize the reinstated appraiser.

300 Sec. 6. (NEW) (*Effective October 1, 2010*) (a) Upon the verified
301 complaint in writing of any person concerning a violation by an
302 appraisal management company of the provisions of sections 2 to 5,
303 inclusive, of this act, the Department of Consumer Protection shall
304 investigate such company. Upon a determination by the commissioner
305 that an appraisal management company has made any materially false,
306 fictitious or fraudulent statement or violated any provision of sections
307 2 to 5, inclusive, of this act, the commissioner may deny, refuse to
308 renew, suspend or revoke a certificate of registration issued in
309 accordance with section 2 of this act and may impose a civil penalty of
310 not more than twenty-five thousand dollars.

311 (b) Before denying, refusing to renew, suspending or revoking a
312 certificate of registration or imposing any civil penalty, the
313 commissioner shall give notice and afford an opportunity for hearing.
314 The commissioner shall adopt regulations, in accordance with chapter
315 54 of the general statutes, to carry out the provisions of this section.

316 Sec. 7. (NEW) (*Effective October 1, 2010*) The Commissioner of
317 Consumer Protection may adopt regulations, in accordance with
318 chapter 54 of the general statutes, to carry out the provisions of
319 sections 2 to 5, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:

Section 1 *October 1, 2010* 20-500
Sec. 2 *October 1, 2010* New section
Sec. 3 *October 1, 2010* New section
Sec. 4 *October 1, 2010* New section
Sec. 5 *October 1, 2010* New section
Sec. 6 *October 1, 2010* New section

Sec. 7 October 1, 2010 New section

Statement of Purpose:

To require the registration and regulation of real estate appraisal management companies in this state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]